

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MARCO MARROQUIN,

Petitioner,

No. C 07-6098 PJH (PR)

vs.

**ORDER GRANTING
CERTIFICATE OF
APPEALABILITY**

BEN CURRY, Warden,

Respondent.

This is a habeas case under 28 U.S.C. § 2254 filed pro se by a state prisoner. The petition was denied on October 25, 2010. Petitioner has filed a timely notice of appeal.

A petitioner may not appeal a final order in a federal habeas corpus proceeding without obtaining a certificate of appealability ("COA"). See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A judge shall grant a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate must indicate which issues satisfy this standard. See *id.* § 2253(c)(3). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Petitioner claimed that there was not "some evidence" to support the parole denial. Jurists of reason might find it debatable whether the circumstances of the offense and rather slight post-offense evidence amounted to "some evidence. A COA is **GRANTED**.

IT IS SO ORDERED.

Dated: November 15, 2010.



PHYLLIS J. HAMILTON
United States District Judge